

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:10-00123
)	JUDGE CAMPBELL
ARTHUR SMITH)	

ORDER


Pending before the Court are Defendant's Motion In Limine No. 1 Regarding 404(b) Evidence (Docket No. 61), and Defendant's Motion In Limine No. 2 To Exclude Defendant's Prior Felony Convictions Or In The Alternative To Bifurcate Trial (Docket No. 62). The Court considered the Motions at the Pretrial Conference held on June 18, 2012.

For the reasons stated from the bench, the Defendant's Motion In Limine No. 1 Regarding 404(b) Evidence (Docket No. 61) is DENIED, as moot, as the Government has indicated that it does not intend to introduce Rule 404(b) evidence in its case-in-chief. To the extent the Government later decides to offer such evidence in its case-in-chief or as rebuttal proof, it shall provide the Defendant and the Court with notice prior to its introduction.

The Defendant's Motion In Limine No. 2 To Exclude Defendant's Prior Felony Convictions Or In The Alternative To Bifurcate Trial (Docket No. 62) is DENIED. The Court understands that the Defendant intends to stipulate that he was a convicted felon for purposes of the felon-in-possession charge, and therefore, pursuant to the procedure in Old Chief v. United States, 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997), the Government shall not introduce proof as to the name or nature of the prior conviction. The parties shall submit a proposed limiting instruction, and state whether they request that such an instruction be given when the

stipulation is introduced. The Court expresses no opinion at this time as to whether the Government will be allowed to impeach the Defendant with a prior conviction in the event the Defendant decides to testify at trial.

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE